

The Gazette



of India

EXTRAORDINARY
PART II—Section 1
PUBLISHED BY AUTHORITY

No. 46] NEW DELHI, TUESDAY, DECEMBER 22, 1964/PAUSA 1, 1886

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 22nd December, 1964/PAUSA 1, 1886 (Saka)

The following Acts of Parliament received the assent of
the President on the 22nd December, 1964, and are hereby published
for general information:—

THE PROVISIONAL COLLECTION OF TAXES
(AMENDMENT) ACT, 1964

No. 45 of 1964

[22nd December, 1964]

An Act further to amend the Provisional Collection of Taxes
Act, 1931.

BE it enacted by Parliament in the Fifteenth Year of the
Republic of India as follows:—

1. (1) This Act may be called the Provisional Collection of Taxes Short title
and com-
mencement.
(Amendment) Act, 1964.

(2) This Act shall come into force on such date as the Central
Government may, by notification in the Official Gazette, appoint.

16 of 1931. 2. In sections 4 and 5 of the Provisional Collection of Taxes Act, Amendment
of sections 4
and 5.
1931, for the words "sixtieth day", wherever they occur, the words
"seventy-fifth day" shall be substituted.

THE WEALTH-TAX (AMENDMENT) ACT, 1964

No. 46 of 1964

[22nd December, 1964]

An Act further to amend the Wealth-tax Act, 1957.

BE it enacted by Parliament in the Fifteenth Year of the
Republic of India as follows:—

1. (1) This Act may be called the Wealth-tax (Amendment) Act, Short title
and com-
mencement.
1964.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2

2. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the principal Act),—

27 of 1957.

(a) for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

‘(b) “Appellate Tribunal” means the Appellate Tribunal constituted under section 252 of the Income-tax Act;

(c) “assessee” means a person by whom wealth-tax or any other sum of money is payable under this Act, and includes—

(i) every person in respect of whom any proceeding under this Act has been taken for the determination of wealth-tax payable by him or by any other person or the amount of refund due to him or such other person;

(ii) every person who is deemed to be an assessee under this Act;

(iii) every person who is deemed to be an assessee in default under this Act;

(ca) “assessment” includes re-assessment;

(d) “assessment year” means the period of twelve months commencing on the 1st day of April every year;’

(b) in clause (e), in sub-clause (v), the words “from the date the interest vests in the assessee” shall be inserted at the end;

(c) after clause (h), the following clause shall be inserted, namely:—

‘(ha) “Director of Inspection” includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection;’

(d) for clause (j), the following clause shall be substituted, namely:—

‘(j) “Income-tax Act” means the Income-tax Act, 1961;’

43 of 1961

(e) after clause (l), the following clauses shall be inserted, namely:—

‘(la) “Inspector of Wealth-tax” means an Inspector of Income-tax empowered to work as an Inspector of Wealth-tax under section 11A;

(lb) “legal representative” has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908;’

5 of 1908

(f) in clause (m), in sub-clause (ii), for the words "any asset in respect of which wealth-tax is not payable", the words "any property in respect of which wealth-tax is not chargeable" shall be substituted;

(g) after clause (o), the following clauses shall be inserted, namely:—

(oa) "public servant" has the same meaning as in section 21 of the Indian Penal Code;

(ob) "regular assessment" means the assessment made under section 16;

(h) in clause (q),—

(i) for the words, brackets and figures "clause (11) of section 2", the word and figure "section 3" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that—

(i) where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the valuation date for the purposes of this Act shall be the last day of the last of the previous years aforesaid;

(ii) in the case of a person who is not an assessee within the meaning of the Income-tax Act, the valuation date for the purposes of this Act shall be the 31st day of March immediately preceding the assessment year;

(iii) where an assessment is made in pursuance of section 19A, the valuation date shall be the same valuation date as would have been adopted in respect of the net wealth of the deceased if he were alive."

(i) in clause (s), for the word and figure "section 8", the words "this Act" shall be substituted.

3. In section 3 of the principal Act, for the words "financial year", the words "assessment year" shall be substituted. Amendment of section 3.

4. In section 4 of the principal Act,— Amendment of section 4.

(a) in sub-section (1)—

(i) for the words "there shall be included, as belonging to him", the words "there shall be included, as belonging to that individual" shall be substituted;

(ii) in clause (a)—

(A) for sub-clauses (i), (ii) and (iii), the following sub-clauses shall be substituted, namely:—

(i) by the spouse of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, or

(ii) by a minor child, not being a married daughter, of such individual, to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration, or

(iii) by a person or association of persons to whom such assets have been transferred by the individual otherwise than for adequate consideration for the immediate or deferred benefit of the individual, his or her spouse or minor child (not being a married daughter) or both, or”;

(B) the following proviso shall be inserted at the end, namely:—

“Provided that where the transfer of such assets or any part thereof is either chargeable to gift-tax under the Gift-tax Act, 1958 or is not chargeable under section 5 of that Act, for any assessment year commencing after the 31st day of March, 1964, the value of such assets or part thereof, as the case may be, shall not be included in computing the net wealth of the individual.”;

18 of 1958.

(b) for the *Explanation*, the following sub-section and *Explanation* shall be substituted, namely:—

“(6) For the purposes of this Act, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.

Explanation.—For the purposes of this section,—

(a) the expression “transfer” includes any disposition, settlement, trust, covenant, agreement or arrangement, and

(b) the expression “irrevocable transfer” includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the life time of the trans-

free, and under which the transferor derives no direct or indirect benefit, but does not include a transfer of assets if such instrument—

(i) contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor, or

(ii) in any way gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the assets or income therefrom.

5. In section 5 of the principal Act,—

Amend-
ment of
section 5.

(a) in sub-section (1), in clause (xvii), for the word, figures and letter "Chapter IXA", the words, brackets and figures "clause (38) of section 2" shall be substituted;

(b) in sub-section (3),—

(i) for the words, brackets and figures "clause (xx), clause (xx)", the words, brackets and figures "and clause (xix)" shall be substituted;

(ii) in the proviso, for the words "financial year", the words "assessment year" shall be substituted.

6. In section 6 of the principal Act, in clause (ii), for the words, brackets and figures "sub-section (3) of section 4", the word and figures "section 10" shall be substituted.

Amend-
ment of
section 6.

7. In section 7 of the principal Act,—

Amend-
ment of
section 7

(a) in sub-section (1), for the words "The value", the words "Subject to any rules made in this behalf, the value" shall be substituted;

(b) in clause (a) of sub-section (2), for the words "the circumstances of the case may require;", the words "may be prescribed;" shall be substituted.

8. In section 8 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

Amend-
ment of
section
8.

"*Explanation.*—For the purposes of this section, the Income-tax Officer having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act means the Income-tax Officer of the area in which that person resides."

9. After section 8 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
8A.

'8A. (1) Notwithstanding anything contained in section 8, the Commissioner may, after giving the assessee a reasonable

Power to
transfer
cases

opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Wealth-tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Wealth-tax Officer to another:

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from one Wealth-tax Officer to another whose offices are situated in the same city, locality or place.

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Wealth-tax Officer from whom the case is transferred.

Explanation.—In this section, the word “case”, in relation to any person whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order, or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year.’

Insertion
of new
section
10A.

10. After section 10 of the principal Act, the following section shall be inserted, namely:—

Directors
of Inspection.

“10A. (1) The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Director of Inspection.

(2) A Director of Inspection shall perform such functions of any other Wealth-tax authority as may be assigned to him by the Board.”.

Substitution
of new sections
for
section 12.

11. For section 12 of the principal Act, the following sections shall be substituted, namely:—

Inspector
of Wealth-
tax.

‘11A. A Commissioner of Wealth-tax may empower any Inspector of Income-tax within the meaning of the Income-tax Act to work as an Inspector of Wealth-tax under any Wealth-tax authority, and when he is so empowered, he shall perform such functions in the execution of this Act as are assigned to him by the said Wealth-tax authority.

Control of
Wealth-
tax authorities.

12. (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(2) Wealth-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Wealth-tax shall be subordinate to the Wealth-tax Officer or other Wealth-tax authority under whom they are empowered to work and to any other Wealth-tax authority to whom the said officer or other authority is subordinate.

Explanation.—For the purposes of sub-section (1), "Director of Inspection" does not include a Deputy Director of Inspection or an Assistant Director of Inspection; and for the purposes of sub-section (2) of this section and sub-section (2) of section 13, "Director of Inspection" does not include an Assistant Director of Inspection.

12. Section 13 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 13.

"(2) Every Wealth-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions."

13. After section 13 of the principal Act, the following section shall be inserted in Chapter III, namely:—

Insertion of new section 13A.

"13A. The Director of Inspection, the Commissioner of Wealth-tax and the Inspecting Assistant Commissioner of Wealth-tax shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that a Wealth-tax Officer has under this Act in relation to the making of enquiries."

Powers of Director of Inspection, Commissioner and Inspecting Assistant Commissioner to make enquiries.

14. In section 14 of the principal Act,—

Amendment of

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

section 14.

"(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under

this Act on the valuation date was of such an amount as to render him liable to wealth-tax under this Act, shall, before the 30th day of June of the corresponding assessment year, furnish to the Wealth-tax Officer a return in the prescribed form and verified in the prescribed manner setting forth the net wealth as on that valuation date.”;

(b) in sub-section (2), for the words “the net wealth of any person is of such an amount as to render him liable to wealth-tax under this Act,” the following shall be substituted, namely:—

“any person is assessable under this Act, whether in respect of his net wealth or the net wealth of any other person.”

Insertion of new sections 15A to 15C.

15. After section 15 of the principal Act, the following sections shall be inserted, namely:—

Return by whom to be signed.

“15A. The return made under section 14 or section 15 shall be signed and verified—

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and where for any other reason it is impossible for the individual to sign the return, by any person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the *karta*, and, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family; and

(c) in the case of a company, by the principal officer thereof.

Self assessment.

15B. (1) Where a return has been furnished under section 14 or section 15 and the tax payable on the basis of that return exceeds five hundred rupees, the assessee shall pay the tax so payable within thirty days of furnishing the return.

(2) After a provisional assessment under section 15C or a regular assessment under section 16 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards the provisional assessment or regular assessment, as the case may be.

(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), he shall,

unless a provisional assessment under section 15C or a regular assessment under section 16 has been made before the expiry of thirty days referred to in that sub-section, be liable, by way of penalty, to pay such amount as the Wealth-tax Officer may direct, so, however, that the amount of penalty does not exceed fifty per cent of the amount of such tax or part, as the case may be:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.

15C. (1) The Wealth-tax Officer may, at any time after the receipt of a return made under section 14 or section 15, proceed to make, in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it. Provi-
sional
assess-
ment.

(2) After a regular assessment has been made, any amount paid towards the provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(3) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(5) For the removal of doubts, it is hereby declared that the provisions of section 31 excepting sub-section (6) thereof, and section 32 shall apply in relation to any tax payable in pursuance of a provisional assessment made under this section as if it were a regular assessment under section 16."

16. In section 16 of the principal Act,—

Amend-
ment of
section 16.

(a) in sub-section (1)—

(i) for the words and figures "section 14 is complete", the words and figures "section 14 or section 15 is correct and complete" shall be substituted;

(ii) for the words "and determine the amount payable by him as wealth-tax", the words "and determine the amount of wealth-tax payable by him or the amount refundable to him on the basis of such return" shall be substituted;

(b) in sub-section (3)—

(i) after the words “any specified points”, the words “and after taking into account all relevant material which the Wealth-tax Officer has gathered” shall be inserted;

(ii) for the words “and determine the amount payable by him as wealth-tax”, the words “and determine the amount of wealth-tax payable by him or the amount refundable to him on the basis of such assessment” shall be substituted;

(c) in sub-section (4), after the words, brackets and figure “under sub-section (2) of that section”, the words and figures “or who has made a return under section 15” shall be inserted;

(d) in sub-section (5), for the words “shall make the assessment to the best of his judgment and determine the amount payable by the person as wealth-tax on the basis of such assessment”, the words “after taking into account all relevant material which he has gathered, shall estimate the net wealth to the best of his judgment and determine the amount of wealth-tax payable by the person or the amount refundable to him on the basis of such assessment” shall be substituted.

Amend-
ment of
section 17.

17. Section 17 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) has reason to believe that by reason of the omission or failure on the part of any person to make a return under section 14 of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act for any assessment year or to disclose fully and truly all material facts necessary for assessment of his net wealth or the net wealth of such other person for that year, the net wealth chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or”;

(ii) for the words “serve on the assessee”, the words “serve on such person” shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Nothing contained in this section limiting the time within which any proceeding for assessment or re-assessment may be commenced, shall apply to an assessment or re-assessment to be made on such person in consequence of or to give effect to any finding or direction contained in an order under section 23, 24, 25, 27 or 29:

Provided that the provisions of this sub-section shall not apply in any case where any such assessment or re-assessment relates to an assessment year in respect of which an assessment or re-assessment could not have been made at the time the order which was the subject matter of the appeal, reference or revision, as the case may be, was made by reason of any provision limiting the time within which any action for assessment or re-assessment may be taken.”.

18. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

“18. (1) If the Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person—

Penalty for failure to furnish returns, to comply with notices and concealment of assets, etc.

(a) has without reasonable cause failed to furnish the return which he is required to furnish under sub-section (1) of section 14 or by notice given under sub-section (2) of section 14 or section 17, or has without reasonable cause failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 14 or by such notice, as the case may be; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 16; or

(c) has concealed the particulars of any assets or furnished inaccurate particulars of any assets or debts; he or it may, by order in writing, direct that such person shall pay by way of penalty—

(i) in the cases referred to in clause (a) in addition to the amount of wealth-tax, if any, payable by him, a sum equal to two per cent. of the tax for every month during

which the default continued, but not exceeding in the aggregate fifty per cent. of the tax;

(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the net wealth as returned by such person had been accepted as the correct net wealth;

(iii) in the cases referred to in clause (c), in addition to any wealth-tax payable by him, a sum which shall not be less than twenty per cent. but which shall not exceed one and a half times the amount of the tax, if any, which would have been avoided if the net wealth as returned by such person had been accepted as the correct net wealth.

Explanation.—Where the net wealth returned by any person is less than eighty per cent. of the net wealth (hereinafter in this *Explanation* referred to as the correct wealth) as assessed under section 16 or section 17, such person shall, unless he proves that the failure to return the correct wealth did not arise from any fraud or any gross or wilful neglect on his part, be deemed to have concealed the particulars of assets or furnished inaccurate particulars of assets or debts for the purposes of clause (c) of this sub-section.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Wealth-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this section for the imposition of penalty.

(4) An Appellate Assistant Commissioner, a Commissioner or the Appellate Tribunal on making an order under this section imposing a penalty, shall forthwith send a copy of the same to the Wealth-tax Officer.

(5) No order imposing a penalty under this section shall be passed after the expiration of two years from the date of the

completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced.

Explanation.—In computing the period of limitation for the purposes of this section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court shall be excluded.”.

19. After section 19 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
19A.

‘19A. (1) Subject as hereinafter provided, the net wealth of the estate of a deceased person shall be chargeable to tax in the hands of the executor or executors.

Assess-
ment in
the case of
executors.

(2) The executor or executors shall for the purposes of this Act be treated as an individual.

(3) The status of the executor or executors shall for the purposes of this Act as regards residence and citizenship be the same as that of the deceased on the valuation date immediately preceding his death.

(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own net wealth or on the net wealth of the deceased under section 19.

(5) Separate assessments shall be made under this section in respect of the net wealth as on each valuation date as is included in the period from the date of the death of the deceased to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the net wealth on any valuation date under this section, any assets of the estate distributed to, or applied to the benefit of, any specific legatee of the estate prior to that valuation date shall be excluded, but the assets so excluded shall, to the extent such assets are held by the legatee on any valuation date, be included in the net wealth of such specific legatee on that valuation date.

Explanation.—In this section, “executor” includes an administrator or other person administering the estate of a deceased person.’

Amend-
ment of
section 21.

20. In section 21 of the principal Act,—

(a) in sub-sections (1), (2) and (4), for the words “on whose behalf”, wherever they occur, the words “on whose behalf or for whose benefit” shall be substituted;

(b) in sub-section (3),—

(i) the brackets and words ‘(all of which persons are hereinafter in this sub-section included in the term “beneficiary”)’ shall be omitted;

(ii) for the words “on behalf of such beneficiary,” the words “on behalf or for the benefit of such beneficiary,” shall be substituted;

(c) in sub-section (4), after the words “were an individual”, the words “who is a citizen of India and resident in India” shall be inserted;

(d) after sub-section (4), the following sub-section and *Explanation* shall be inserted, namely:—

‘(5) Any person who pays any sum by virtue of the provisions of this section in respect of the net wealth of any beneficiary, shall be entitled to recover the sum so paid from such beneficiary, and may retain out of any assets that he may hold on behalf or for the benefit of such beneficiary, an amount equal to the sum so paid.

Explanation.—In this section, the term “beneficiary” means any person including a minor, lunatic or idiot on whose behalf or for whose benefit assets are held by any other person.’

Amend-
ment of
section 22.

21. In section 22 of the principal Act,—

(a) the proviso to sub-section (2) shall be omitted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) No person shall be deemed to be the agent of any person residing outside India unless he has had an opportunity of being heard by the Wealth-tax Officer as to his being treated as such.

(4) Any agent, who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid or to retain out of any moneys that may be in his possession or may come to him

in his capacity as such agent, an amount equal to the sum so paid.

(5) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person residing outside India on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this section, and in the event of any disagreement between the principal and such agent or person, as to the amount to be so retained, such agent or person may secure from the Wealth-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(6) The amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent or person may at such time have in his hands additional assets of the principal.

(7) Notwithstanding anything contained in this section, any arrears of tax due from a person residing outside India may be recovered also in accordance with the provisions of this Act from any assets of such person which are or may at any time come within India."

22. In section 23 of the principal Act,—

Amend-
ment of
section 23.

(a) in sub-section (1),—

(i) in clause (a), for the words "his net wealth", the words "net wealth" shall be substituted;

(ii) in clause (d), after the word "under", the words, figures and letter "section 15B or" shall be inserted;

(iii) in clause (f), for the words, brackets and figures "sub-section (1) of section 46", the word and figures "section 221" shall be substituted, and the word "or" shall be inserted at the end;

(iv) after clause (f), the following clauses shall be inserted, namely:—

"(g) objecting to any order made by the Wealth-tax Officer under section 22 treating him as the agent of a person residing outside India; or

(h) objecting to any order of the Wealth-tax Officer under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or

(i) objecting to an order of the Wealth-tax Officer imposing a fine under sub-section (2) of section 37;";

(b) after sub-section (5), the following sub-sections shall be inserted, namely:—

"(5A) In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant.

(5B) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision."

Amend-
ment of
section 24.

23. In section 24 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An assessee objecting to an order passed by the Appellate Assistant Commissioner under section 18 or section 23 or sub-section (2) of section 37 or to an order passed by the Inspecting Assistant Commissioner under sub-section (3) of section 18, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him."

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Wealth-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner and such memorandum shall be disposed of by the

Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1) or sub-section (2).";

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (2) or sub-section (2A), if it is satisfied that there was sufficient cause for not presenting it within that period.";

(d) for sub-sections (6), (7) and (8), the following sub-sections shall be substituted, namely:—

"(6) (a) Where the appellant objects to the valuation of any property, the Appellate Tribunal may, and if the appellant so requires, shall, refer the question of the disputed value to the arbitration of two valuers, one of whom shall be nominated by the appellant and the other by the respondent, and the Tribunal shall, so far as that question is concerned, pass its orders under sub-section (5) conformably to the decision of the valuers:

Provided that—

(i) where the appellant or the respondent does not nominate any valuer within the time specified by the Appellate Tribunal or within such further time as the Appellate Tribunal may allow, the Appellate Tribunal may nominate a valuer on his behalf;

(ii) if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement, by the Appellate Tribunal, and the decision of that valuer on the question of valuation shall be final;

(iii) where any person has at any time expressed any opinion on the valuation of any property to which the provisions of this clause apply, such person shall not be nominated as a valuer in relation to that property.

(b) The valuers to whom a reference under clause (a) has been made by the Appellate Tribunal shall communicate their decision to the Appellate Tribunal within six

months of the date of such reference or within such further time as the Tribunal may allow:

Provided that if the decision of the valuers is not communicated within the period aforesaid, the Appellate Tribunal may order that the reference made under this sub-section shall be deemed to be withdrawn and proceed to dispose of the case on the evidence before it, including the report of either of the valuers if any such report has been submitted.

(7) The extent to which the costs of arbitration proceedings (including a case where a reference is deemed to be withdrawn) under sub-section (6) shall be borne by the appellant or the respondent shall be at the discretion of the Appellate Tribunal.

(8) The valuers may, in disposing of any matter referred to them for arbitration under this section, hold or cause to be held such enquiry as they think fit and after giving the appellant and the respondent an opportunity of being heard, make such decision as they think fit and shall communicate such decision in writing to the Appellate Tribunal.

(8A) The valuers appointed under this section, while acting as such, shall have all powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in 5 of 19 respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of documents;

(iii) receiving evidence on affidavit; and

(iv) issuing commission for examination of witnesses or documents.

(8B) Nothing in the Arbitration Act, 1940 shall apply 10 of 1940. to arbitrations under this section.”;

(e) in sub-section (11), for the words, brackets, figures and letter “sub-sections (5), (7) and (8) of section 5A”, the words, brackets and figures “sub-sections (1), (4) and (5) of section 255” shall be substituted.

24. In section 25 of the principal Act, after sub-section (2), the following sub-sections and *Explanation* shall be inserted, namely:— Amendment of section 25.

“(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

(4) Notwithstanding anything contained in sub-section (3), an order in revision under sub-section (2) may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (3), the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.”.

.. 25. In section 26 of the principal Act, in sub-section (1), for the words and figures “an order of enhancemet made by the Commissioner under section 25”, the words, figures and brackets “an order passed by the Commissioner under section 18 or sub-section (2) of section 25” shall be substituted. Amendment of section 26.

26. In section 27 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:— Amendment of section 27.

“(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 24 or section 26, by application in the prescribed form, accompanied, where the application is made by the assessee, by a fee of rupees one hundred, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section (1), allow it to be presented within a further period not exceeding thirty days.”;

(b) in sub-section (3), for the words "three months", the words "ninety days" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If, on an application made under this section the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of the High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.";

(d) in sub-sections (4), (5) and (6), after the words "High Court", the words "or the Supreme Court" shall be inserted;

(e) for sub-sections (7), (8) and (9), the following sub-section shall be substituted, namely:—

"(7) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference, shall be in the discretion of the Court.".

Insertion
of new
sections
29A and
29B.

27. After section 29 of the principal Act, the following sections shall be inserted in Chapter VI, namely:—

Tax to be
paid not-
with-
standing
reference,
etc.

'29A. Notwithstanding that a reference has been made to the High Court or the Supreme Court, or an appeal has been preferred to the Supreme Court, wealth-tax shall be payable in accordance with the assessment made in the case.

Definition
of High
Court.

29B. In this Chapter, "High Court" means—

(i) in relation to any State, the High Court of that State;

(ii) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab;

(iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala;

(vi) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

(vii) in relation to the Union territory of Pondicherry, the High Court at Madras.

28. For sections 30, 31 and 32 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 30, 31 and 32.

“30. When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Wealth-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.

Notice of demand.

31. (1) Any amount specified as payable in a notice of demand under section 30 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice:

When tax, etc., payable and when assessee deemed in default.

Provided that, where the Wealth-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 30 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1):

Provided that where as a result of an order under section 23, or section 24, or section 25, or section 26, or section 27, or section 29, or section 35, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Wealth-tax

Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default.

(5) If in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 23, the Wealth-tax Officer may, in his discretion, and subject to such conditions, as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(7) Where an assessee has been assessed in respect of assets located in a country outside India, the laws of which prohibit or restrict the remittance of money to India, the Wealth-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is attributable to those assets, and shall continue to treat the assessee as not in default in respect of that part of the tax until the prohibition or restriction of remittance is removed.

Mode of
recovery.

32. The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to wealth-tax and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax.

Explanation I.—Any reference to section 173 and sub-section (2) or sub-section (6) or sub-section (7) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-section

(7) of section 22 and sub-section (2) or sub-section (6) or sub-section (7) of section 31 of this Act respectively.

Explanation II.—The Tax Recovery Officer and the Tax Recovery Commissioner referred to in the Income-tax Act or the rules made thereunder shall be deemed to be the Tax Recovery Officer and the Tax Recovery Commissioner for the purposes of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.”

29. Section 34 shall be omitted.

Omission
of section
34.

30. After Chapter VII of the principal Act, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
VIIA.

“CHAPTER VIIA

REFUNDS

34A. (1) Where, as a result of any order passed in appeal or other proceeding (including a rectification proceeding) under this Act, refund of any amount becomes due to the assessee, the Wealth-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Wealth-tax Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Wealth-tax Officer may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

(3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Wealth-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent. per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

(4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date

of the order referred to in that sub-section to the date the refund is granted.

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the Wealth-tax Officer, Appellate Assistant Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.”.

Insertion
of new
section
34B.

31. In Chapter VIII of the principal Act, the following section shall be inserted before section 35, namely:—

Transfers
to defraud
revenue
void.

“34B. Where, during the pendency of any proceeding under this Act, any assessee creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever, of any of his assets in favour of any other person with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding:

Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of the pendency of the proceeding under this Act.”.

Substitu-
tion of
new sec-
tion for
section 35.

32. For section 35 of the principal Act, the following section shall be substituted, namely:—

Rectifica-
tion of
mistakes.

“35. (1) With a view to rectifying any mistake apparent from the record—

(a) the Wealth-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Appellate Assistant Commissioner may amend any order passed by him under section 18 or under section 23;

(c) the Inspecting Assistant Commissioner may amend any order passed by him under section 18;

(d) the Commissioner may amend any order passed by him under section 18 or under section 25;

(e) the Appellate Tribunal may amend any order passed by it under section 18 or under section 24.

(2) Where the amount of tax, penalty or interest determined as a result of the first appeal or revision against the order referred to in sub-clause (iii) of clause (m) of section 2 is paid within six months of the date of the order passed in such appeal or revision, the Wealth-tax Officer may, notwithstanding anything to the contrary in this Act, rectify the assessment by allowing a deduction to the extent the tax, penalty or interest so paid stood disallowed therein as if such rectification were rectification of a mistake apparent from the record.

(3) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) or sub-section (2) of its own motion; and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner or the Appellate Tribunal, by the Wealth-tax Officer also.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Wealth-tax authority concerned or the Tribunal, as the case may be.

(6) where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Wealth-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 30 and the provisions of this Act shall apply accordingly.

(7) No amendment under this section shall be made after the expiry of four years—

(a) in the case of an amendment under sub-section (2), from the date of the order passed in the first appeal or revision referred to in that sub-section; and

(b) in any other case, from the date of the order sought to be amended.

(8) Where any matter has been considered and decided in a proceeding by way of an appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under this section in relation to any matter other than the matter which has been so considered and decided.”.

**Amend-
ment of
section 36.**

33. In section 36 of the principal Act,—

(a) in sub-section (1), the words “on conviction before a magistrate,” shall be omitted;

(b) in sub-section (2), for the words “punishable with simple imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both”, the following words and proviso shall be substituted, namely:—

“punishable with rigorous imprisonment for a term which may extend to two years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.”;

(c) after sub-section (2), the following sub-section and proviso shall be inserted, namely:—

“(2A) If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to the particulars of any net wealth chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with rigorous imprisonment for a term which may extend to two years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months.”;

(d) for the *Explanation*, the following sub-section shall be substituted, namely:—

“(5) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act.”.

34. After section 36 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
36A.

“36A. (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of particulars of net wealth or to the evasion of payment of tax on net wealth, it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of particulars of net wealth or evasion of payment of tax on net wealth.

Power to
tender
immunity
from pro-
secution.

45 of 1860.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.”

35. For section 37 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new sec-
tion for
section 37.

“37. (1) The Wealth-tax Officer, Appellate Assistant Commissioner, Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to
take evi-
dence on
oath, etc.

5 of 1908.

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the authority empowered to issue such summons may impose upon him such fine not exceeding five hundred rupees, as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter VII of this Act.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act:

Provided that a Wealth-tax Officer shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor.

(4) Any proceeding under this Act before a wealth-tax authority or the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.”.

Insertion
of new
section
37A.

36. After section 37 of the principal Act, the following section shall be inserted, namely :—

Power of
search and
seizure.

“37A. (1) Where the Commissioner, in consequence of information in his possession, has reason to believe that—

- (a) any person to whom a notice under sub-section (4) of section 16 or a summons under section 37 was issued to

produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such notice or summons, or

(b) any person to whom a notice or summons as aforesaid has been or might be issued will not, or would not, produce or cause to be produced any books of account or other documents which will be useful for, or relevant to, any proceeding under this Act, or

(c) any person is in possession of any articles or things including money disproportionate to his known assets, particulars of which will be useful for, or relevant to, any proceeding under this Act,

he may authorise any Inspecting Assistant Commissioner or any Wealth-tax Officer to enter and search, with such assistance as he may deem necessary, any building or place where he has reason to suspect that such books of account, other documents, articles or things including money are kept and if as a result of the search such books of account, other documents, articles or things including money are found, the Inspecting Assistant Commissioner or the Wealth-tax Officer, as the case may be, may—

(i) seize any such books of account or other documents;

(ii) place marks of identification on any such books of account or other documents or make or cause to be made extracts or copies therefrom;

(iii) make a note or an inventory of any articles or things including money found which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(2) The books of account or other documents seized under sub-section (1) shall not be retained by the Inspecting Assistant Commissioner or the Wealth-tax Officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commissioner for such retention is obtained:

Provided that the Commissioner shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under this Act in respect of the years for which the books of account or other documents are relevant are completed.

(3) The person from whose custody any books of account or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the Wealth-tax Officer or any other person authorised by him, at such place and time as the Wealth-tax Officer may appoint in this behalf.

(4) If a person legally entitled to the books of account or other documents seized under sub-section (1) objects for any reason to the approval given by the Commissioner under sub-section (2), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or documents.

(5) On receipt of the application under sub-section (4), the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(6) The provisions of the Code of Criminal Procedure, 1898 relating to searches shall apply, so far as may be, to searches under sub-section (1) of this section.

5 of 1898.

(7) The Board may make rules in relation to searches under this section."

Amend-
ment of
section 39.

37. To section 39 of the principal Act, the following proviso shall be added, namely:—

"Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard."

Amend-
ment of
section 41.

38. In section 41 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) After a finding of total partition has been recorded by the Wealth-tax Officer under section 20 in respect of any Hindu family, notices under this Act in respect of the net wealth of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition."

Substitu-
tion of
new sec-
tions for
section 44.

39. For section 44 of the principal Act, the following sections shall be substituted, namely:—

'44. (1) Any assessee who is entitled to or required to attend before any Wealth-tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.

Appear-
ance
before
wealth-
tax-author-
ities by
authorised
repre-
sentatives.

(2) Notwithstanding anything in sub-section (1)—

(i) no person who has been convicted of an offence connected with any wealth-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clause (i) or clause (ii) of sub-section (1) of section 18 shall be qualified to represent an assessee under sub-section (1) for such time as the Commissioner may by order determine;

(ii) if any person who is not a legal practitioner or a chartered accountant, is found guilty of misconduct in connection with any wealth-tax proceeding by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1);

(iii) no person not qualified to represent an assessee under the Indian Income-tax Act, 1922, the Estate Duty Act, 1953, the Expenditure-tax Act, 1957, or the Gift-tax Act, 1958, shall be entitled to appear on behalf of any assessee under this Act;

11 of 1922.
34 of 1953.
29 of 1957.
18 of 1958.

Provided that any order or direction under clause (i) or clause (ii) shall be subject to the following conditions, namely:—

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

Agreement for avoidance or relief of double taxation with respect to wealth-tax.

44A. The Central Government may enter into any agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.

Explanation.—The expression “reciprocating country” for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

Countries with which no agreement exists.

44B. Where the net wealth of any assessee includes any foreign wealth and he proves that, in respect of such foreign wealth, he has paid in any country, with which there is no reciprocal arrangement under section 44A for the relief or avoidance of double taxation, a tax in respect of wealth, under the law in force in that country, he shall be entitled to the deduction from the Indian wealth-tax payable by him of a sum calculated on such doubly taxed foreign wealth at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

Explanation.—In this section—

(1) the expression “Indian wealth-tax” means wealth-tax charged in accordance with the provisions of this Act;

(2) the expression “Indian rate of tax” means the rate determined by dividing the amount of Indian wealth-tax after deduction of any relief due under the provisions of this Act but before the deduction of any relief due under this section by the net wealth;

(3) the expression “rate of tax of the said country” means any tax in respect of wealth, actually paid in the said country, in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the wealth assessed in the said country;

(4) the expression “foreign wealth” in relation to any assessee means the value of all his assets located in any country outside India as reduced by the value of his debts in that country.

40. In section 46 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 46.

“(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

41. In Part II of the Schedule to the principal Act, for the words, figures, brackets and letters “sections 8, 9, 10 and 12 of the Income-tax Act but without deducting the allowances referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, sub-clause (via) and sub-clause (vib) of sub-section (2) of section 10”, the words, figures, letters and brackets “Chapter IV of the Income-tax Act other than the provisions under heads of income ‘A—Salaries’ and ‘E—Capital Gains’ thereof, but without deducting the allowances referred to in sub-section (2) of section 32, section 33 and section 34” shall be substituted.

Amend-
ment of
the Sched-
ule.

R. C. S. SARKAR,
Secy. to the Govt. of India.

